

FCC MAIL SECTION

Before the  
Federal Communications Commission  
Washington, D.C. 20544-3555

DIST. 100-200  
MM Docket No. 94-122

In the Matter of

Amendment of Section 73.202(b), RM-8513  
Table of Allotments,  
FM Broadcast Stations.  
(Atlantic and Glenwood, Iowa)

**REPORT AND ORDER**  
**(Proceeding Terminated)**

Adopted: July 14, 1995;

Released: July 25, 1995

By the Chief, Allocations Branch:

1. At the request of Valley Broadcasting, Inc. ("petitioner"), the Commission has before it the *Notice of Proposed Rule Making*, 9 FCC Rcd 6138 (1994), proposing the reallocation of Channel 279C from Atlantic to Glenwood, Iowa, and the modification of Station KXKT's license to specify Glenwood as its community of license, pursuant to Section 1.420(i) of the Commission's Rules. Comments were filed by the petitioner stating its intention to apply for the channel, if allotted, and by Wireless Communications Corp. ("Wireless").<sup>1</sup> Reply comments were filed by the petitioner.<sup>2</sup>

2. As stated in the *Notice*, the allotment of Channel 279C to Glenwood could provide the community with its first local aural transmission service without depriving Atlantic of its sole local aural transmission service. However, petitioner was requested to provide a study showing what areas and populations would gain and lose reception service. Further, because the transmitter site proposed by the petitioner is but 3 kilometers (1.9 miles) from the Omaha Urbanized Area, petitioner was also requested to specify what portion of the population gain is the result of coverage of the Omaha Urbanized Area.

3. In response, petitioner states that the reallocation of Channel 279C would permit Station KXKT to serve an additional 63,248 persons, none of whom are encompassed

within the Omaha Urbanized Area, since the station already provides all of the Omaha Urbanized Area with a 1 mV/m signal. While the reallocation would also result in a loss of service to 39,851 persons, petitioner states that the entire loss area will continue to receive service from at least five allocated or authorized aural services.

4. Petitioner argues that the reallocation of Channel 279C to Glenwood, a community of 4,571 persons, would result in a preferential arrangement of allotments. It again states that Glenwood, which is located 20 miles from Omaha, is the seat of Mills County, with its own municipal government, police and fire departments, post office and zip code, schools and businesses. Further, it states that Glenwood is not included in the Omaha telephone directory, pointing out that Glenwood residents and businesses can reach Omaha telephone numbers only by placing a long distance telephone call. Therefore, it contends that Glenwood is a separate community deserving of its first local aural transmission service. Atlantic, with a 1990 U.S. Census population of 7,432 persons, would continue to receive local aural transmission service from AM Station KJAN.<sup>3</sup>

**DISCUSSION**

5. We believe the public interest would be served by reallocating Channel 279C from Atlantic to Glenwood as it would result in a preferential arrangement of allotments pursuant to the Commission's change of community procedures. *See Modification of FM and TV Authorizations to Specify a New Community of License*, 4 FCC Rcd 4870 (1989), *recon. granted in part*, 5 FCC Rcd 7094 (1990). Under those procedures, we compare the existing arrangement of allotments with the proposed arrangement of allotments using our FM allotment priorities.<sup>4</sup>

6. The allotment of Channel 279C would provide Glenwood with its first local aural transmission service, thus triggering priority three while Atlantic already has a local aural transmission service, thus falling under priority four. Further, a staff engineering review of the proposal shows that the allotment of Channel 279C to Glenwood would enable Station KXKT to provide service to an additional 56,169 people. While the reallocation would also cause a loss of service to 40,836 people, we note that, with the exception of 1,636 people, all of the loss area will continue to receive service from at least five full-time aural stations. Further, the 1,636 persons who will not receive five full-time services will receive four such services. We have also confirmed that Station KXKT presently serves all of the Omaha Urbanized Area with a 60 dBu signal and 90% of the Urbanized Area receives a 70 dBu signal. We

<sup>1</sup> Wireless' comments also included a "counterproposal" requesting the allotment of Channel 239C3 to Atlantic. Because there is no technical conflict between the allotment of Channel 239C3 to Atlantic and the allotment of Channel 279C to Glenwood, this is not an acceptable counterproposal. However, we have confirmed that Channel 239C3 can be allotted to Atlantic in compliance with the Commission's minimum distance separation requirements. Therefore, the proposed allotment of Channel 239C3 will be the subject of a separate *Notice of Proposed Rule Making*.

<sup>2</sup> After the record closed, Stephen O. Meredith ("Meredith"), permittee of Station KSOM(FM), Audubon, Iowa, filed a Motion to Strike and Return as Unacceptable Comments and Counter proposal filed by Wireless to which Wireless responded. We will

not accept Meredith's pleading. The Commission's Rules do not contemplate the filing of pleadings beyond the comment and reply comment periods specified in the *Notice of Proposed Rule Making* and Meredith has provided no justification for his late filing. (We note that Meredith has also provided no information of decisional significance.)

<sup>3</sup> The *Notice* erroneously described Station KJAN as a full-time station. Rather, it is considered to be a daytime-only station since its nighttime power is less than 250 watts.

<sup>4</sup> The allotment priorities are: (1) first full-time aural service; (2) second full-time aural service; (3) first local service; and (4) other public interest matters. Co-equal weight is given to priorities (2) and (3). *See Revision of FM Assignment Policies and Procedures*, 90 FCC 2d 88 (1982).

recognize that reallocating Channel 279C to Glenwood would result in the removal of Atlantic's sole local nighttime service. However, while we are concerned about the loss of the community's nighttime aural service, this concern is eased by the fact that Atlantic will continue to receive nighttime service from at least five stations. AM Station KJAN does provide some nighttime service and Station KJAN has petitioned to have Channel 239C3 allotted to Atlantic (RM-8573). As proposed, we will also modify Station KXKT's license to specify Glenwood as its community of license.

#### TECHNICAL SUMMARY

7. Channel 279C can be allotted to Glenwood in compliance with the Commission's minimum distance separation requirements with a site restriction of 24.6 kilometers (15.3 miles) north to accommodate petitioner's desired transmitter site.<sup>5</sup>

8. Accordingly, pursuant to the authority contained in Sections 4(i), 5(c)(1), 303(g) and (r) and 307(b) of the Communications Act of 1934, as amended, and Sections 0.61, 0.204(b) and 0.283 of the Commission's Rules, IT IS ORDERED, That effective **September 8, 1995**, the FM Table of Allotments, Section 73.202(b) of the Commission's Rules, IS AMENDED, with respect to the communities listed below, to read as follows:

City	Channel No.
Atlantic, Iowa	--
Glenwood, Iowa	279C

9. IT IS FURTHER ORDERED, pursuant to Section 316(a) of the Communications Act of 1934, as amended, that the license of Valley Broadcasting, Inc., for Station KXKT, Channel 279C, IS MODIFIED to specify Glenwood, Iowa, in lieu of Atlantic, Iowa, as its community of license, subject to the following conditions:

(a) Within 90 days of the effective date of this Order, the licensee shall submit to the Commission a minor change application for a construction permit (Form 301).

(b) Upon grant of the construction permit, program tests may be conducted in accordance with Section 73.1620.

(c) Nothing contained herein shall be construed to authorize a change in transmitter location or to avoid the necessity of filing an environmental assessment pursuant to Section 1.1307 of the Commission's Rules.

10. Pursuant to Commission Rule Section 1.1104(1)(k) and (2)(k), any party seeking a change of community of license of an FM or television allotment or an upgrade of an existing FM allotment, if the request is granted, must submit a rule making fee when filing its application to implement the change in community of license and/or upgrade. As a result of this proceeding, Valley Broadcasting, Inc., licensee of Station KXKT, is required to submit a

rule making fee in addition to the fee required for the applications to effect the change in community of license and/or upgrade.

11. IT IS FURTHER ORDERED, That this proceeding IS TERMINATED.

12. For further information concerning this proceeding, contact Leslie K. Shapiro, Mass Media Bureau, (202) 418-2180.

FEDERAL COMMUNICATIONS COMMISSION

John A. Karousos  
Chief, Allocations Branch  
Policy and Rules Division  
Mass Media Bureau

<sup>5</sup> The coordinates for Channel 279C at Glenwood are 41-15-49

North Latitude and 95-46-21 West Longitude.